

Docket No.: 205731US0



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: :

Isabelle AFRIAT : EXAMINER: M. Haghighatian

SERIAL NO.: 09/847,388 :

FILED: MAY 3, 2001 : GROUP ART UNIT: 1616

FOR: USE OF FIBERS IN A CARE COMPOSITION OR A MAKE-UP
COMPOSITION TO MAKE THE SKIN MATTE

REPLY BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Examiner's Answer mailed July 14, 2004, Appellant submits the following brief comments.

Castro discloses compositions (for example, emulsions) in which fibers and "active agents" (if present) are in the oil phase or an oil carrier. Castro fails to disclose agents for treating greasy skin generally, let alone the specific agents for treating greasy skin required by the appealed claims.

Sebillotte-Arnaud discloses agents for treating greasy skin at col. 2. These agents are contained in the hydrophilic medium of Sebillotte-Arnaud's compositions. Specifically, Sebillotte-Arnaud notes that problems exist with conventional active agent-containing compositions such as emulsions, stating that "it is often difficult, indeed even impossible, to incorporate certain active agents such as kojic acid, caffeic acid, salicylic acid ..." into conventional cosmetic compositions, (col. 1, lines 25-34), and solves this problem by

incorporating the col. 2 active agents into the hydrophilic medium of his gel compositions. Nowhere does Sebillotte-Arnaud teach or suggest that the col. 2 agents for treating greasy skin could be incorporated anywhere except the hydrophilic medium of his compositions.

Given that Sebillotte-Arnaud found that his active agents at col. 2 were stable in a gel containing a hydrophilic carrier but were not stable in other types of compositions, one skilled in the art would not have been motivated to use such active agents in a composition which did not possess a hydrophilic carrier because no expectation would have existed that the resulting active agent-containing composition would be stable. In other words, one skilled in the art would not have been motivated to use Sebillotte-Arnaud's col. 2 active agents in a composition containing an oil carrier because no expectation would have existed that these active agents would have been stable in such a composition. Thus, one skilled in the art would not have been motivated to combine Sebillotte-Arnaud's col. 2 active agents with Castro's oil-containing compositions.

In the Examiner's Answer (at page 6), the Examiner cites cols. 5 and 6 of Sebillotte-Arnaud for the proposition that Sebillotte-Arnaud's compositions can contain oils which, in turn, can contain lipophilic active agents. However, such oils and active agents are not related to the agents for treating greasy skin disclosed at col. 2 which must be present in the hydrophilic medium. Rather, the cols. 5 and 6 ingredients are merely optional ingredients which may or may not be present in Sebillotte-Arnaud's compositions. Thus, Sebillotte-Arnaud does not teach or suggest that the col. 2 agents for treating greasy skin could be incorporated into a non-hydrophilic medium such as Castro's compositions. In fact, Sebillotte-Arnaud teaches away from such a combination.

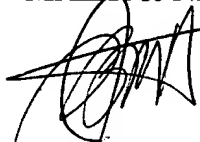
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Also in the Examiner's Answer (at pages 5-6), the Examiner asserts that one skilled in the art would readily substitute retinol and azelaic acid for one another. This assertion completely ignores the fact that retinol is oil-soluble, whereas azelaic acid is water-soluble. Given Sebillotte-Arnaud's and Castro's disclosures, the solubility properties of these compounds is critical, meaning that one skilled in the art would not readily substitute one for the other (that is, an oil-soluble compound for a water-soluble compound).

In view of the above remarks and reasons explaining the patentable distinctness of the presently appealed claims over the applied prior art as well as those contained in the Appeal Brief, Appellant requests that the Examiner's rejections all be REVERSED.

Respectfully submitted,

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